

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte IMRAN IQBAL QURESHI,
MARK LAUDEN CROSLEY
AND ESTHER CHANG-YUAN HO

Appeal No. 2006-0745
Application No. 09/792,758

ON BRIEF

Before JERRY SMITH, BLANKENSHIP, and MACDONALD, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 34-46, which constitute all the claims pending in this application.

The disclosed invention pertains to a method and apparatus for controlling an electronic presentation on a computer display device. The electronic presentation is displayed to both the presenter and an audience. One feature of the invention is that the control of the presentation can occur in response to commands received from either the presenter or the audience.

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Representative claim 34 is reproduced as follows:

34. A computer-readable medium having computer executable instructions for viewing and controlling an electronic presentation on a computer display device, said computer-executable instructions comprising:

displaying the electronic presentation on one or more audience displays viewed by audience members;

displaying the electronic presentation on a presenter display viewed by a presenter; and

controlling the flow of said electronic presentation during the delivery of the presentation in response to commands received from either audience members or the presenter.

The examiner relies on the following references:

Tanikoshi et al. (Tanikoshi)	5,634,018	May 27, 1997
Treibitz et al. (Treibitz)	6,091,408	July 18, 2000

Claims 34-46 stand rejected under 35 U.S.C. § 103(a). As evidence of obviousness the examiner offers Tanikoshi in view of Treibitz.

Rather than repeat the arguments of appellants or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants'

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arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in the claims on appeal. Accordingly, we affirm.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434,

1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If that burden is met, the burden then shifts to the applicant to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See Id.; In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976). Only those arguments actually made by appellants have been considered in this decision. Arguments which appellants could have made but chose not to make in the brief have not been considered and are deemed to be waived [see 37 CFR § 41.37(c)(1)(vii)(2004)].

The examiner essentially finds that Tanikoshi teaches the invention of independent claims 34 and 35 except for teaching that control may occur in response to commands received from either audience members or the presenter. The examiner cites Treibitz as teaching a presentation that can be controlled by more than one user. The examiner finds that it would have been obvious to the artisan to employ Treibitz' plural control aspects in the Tanikoshi presentation system. With respect to independent claim 37, the examiner finds that Tanikoshi teaches the claimed invention except for allowing one or more audience members to control the presentation without affecting the presenter's display. The examiner finds that this feature is taught by the additional information in Tanikoshi when employed in the networked Treibitz multi-site control environment [answer, pages 3-6].

With respect to claims 34-36, which appellants have argued as a single group, appellants argue that Treibitz does not teach the claimed controlling step that is responsive to commands "received from either audience members or the presenter" [claim 34], or "received from audience members" [claim 35]. Appellants note that sending messages to the presenter, as taught by

Treibitz, is not the same as controlling the flow of the presentation. Appellants argue that the judge in Treibitz does not control the flow of the presentation and cannot control the sequence of slides or flow of the presentation during the conduct of the presentation [brief, pages 7-11].

The examiner responds that the judge in Treibitz is part of the audience, and the judge can control the flow of the presentation when a judge configuration mode is present. Specifically, the examiner asserts that the judge controls the flow of the electronic presentation when he screens and previews the images [answer, pages 7-8].

Appellants respond that it is the presenter in Treibitz that controls the flow of the presentation and not the judge as asserted by the examiner. Appellants insist that only the presenter in Treibitz can control the flow and order of the presentation [reply brief, pages 2-3].

We will sustain the examiner's rejection of claims 34-36 for essentially the reasons argued by the examiner. We agree with the examiner that the mere fact that the judge in Treibitz can control which images are seen by the jury is enough to meet the broad recitation of controlling the flow of the presentation in

claims 34 and 35. At a minimum, the judge in Treibitz exercises joint control with the presenter over the flow of the presentation. Treibitz also discloses that "[a]n additional separate button for a 'judge' or other audience can also be provided and used to control the display of the selected image to the judge or other audience independently of the display to the jury" [column 6, lines 56-60]. We interpret this passage as suggesting that the judge or other audience member can control the flow of the presentation during the presentation. Finally, Treibitz teaches that more than one user can control the presentation display system [column 7, lines 15-21]. The fact that there can be more than one user exercising control in Treibitz would have suggested to the artisan that the second user could be a member of the "audience" since the term "audience" is broad enough to include any person other than the presenter.

With respect to claims 37-46, which are argued as a single group by appellants, appellants additionally argue that there is no cached copy of the electronic presentation provided to the audience members in Treibitz so that they are allowed to display and control the presentation at one or more audience displays without affecting the presenter's display [brief, pages 11-13].

The examiner responds that a cached copy is required in Treibitz in order to initiate a re-show when the display is turned back on by the judge. The examiner asserts that a cached copy must be forwarded to the remote locations in order for the judge to present items separately to the audience [answer, pages 8-9].

Appellants respond that the portions of Treibitz cited by the examiner fail to indicate that a cached copy of the presentation is provided to the audience or that the audience can control the flow or sequence of the presentation [reply brief, pages 3-7].

We will sustain the examiner's rejection of claims 37-46. As noted above with respect to claims 34-36, the judge in Treibitz is the audience member for purposes of the rejection. As also noted above, the judge can control the flow of the presentation in Treibitz. Treibitz teaches that "[i]mages to be displayed on the courtroom displays ... can be stored locally on the remote presentation system computer(s) prior to the time they are selected for viewing, or can be sent to the remote presentation system computer just prior to their display" [column 4, lines 20-25]. This teaching suggests that a copy (cached

copy) of the presentation is stored or cached on the remote computers associated with the audience members. Figure 2 of Treibitz also shows that the judge's touch panel is connected to one of the remote computers. Thus, we find that Treibitz teaches that a cached copy of the presentation is provided to the judge and that the judge can control the flow of the presentation as discussed above. Since the presenter's display remains unaffected while the judge is deciding whether to allow a given image to be displayed to the jury, we also find that the judge can control the flow of the presentation without affecting the presenter's display. As also noted above, the judge's button in Treibitz allows the judge to control the image seen by the judge or other audience member [column 6, lines 57-60]. These teachings meet the recitations of independent claim 37.

In summary, we have sustained the examiner's rejection of the claims on appeal. Therefore, the decision of the examiner rejecting claims 34-46 is affirmed.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a) (1) (iv) .

AFFIRMED

JERRY SMITH)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
HOWARD B. BLANKENSHIP)	APPEALS
Administrative Patent Judge)	AND INTERFERENCES
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